

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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THOMAS GESUALDI, ANTHONY D'AQUILA,
LOUIS BISIGNANO, MICHAEL O'TOOLE,
BENNY UMBRA, JOSEPH FERRARA, FRANK
FINKEL, MARC HERBST, DENISE
RICHARDSON, and THOMAS CORBETT, as
Trustees and Fiduciaries of the Local 282 Welfare
Pension, Annuity, Job Training, and Vacation and
Sick Leave Trust Funds,

Plaintiffs,

-against-

G&S CARTING INC., d/b/a G&S TRUCKING CO.,

Defendant.
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ORDER

14-cv-4240 (SJF)(AYS)

**FILED
CLERK**

12/15/2016 2:00 pm

**U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE**

FEUERSTEIN, District Judge:

Presently before the Court is Magistrate Judge Anne Y. Shields' March 3, 2016 *sua sponte* Report and Recommendation (the "Report") recommending that non-party Carl Puma ("Puma") be directed to appear before the undersigned to show cause why he should not be adjudged in contempt of court pursuant to Federal Rule of Civil Procedure 45 for his failure to appear and produce documents at a post-judgment deposition. *See* Docket Entry ("DE") [37]. For the reasons set forth herein, the Court adopts Magistrate Judge Shields' Report in its entirety.

In reviewing a magistrate judge's report and recommendation, the district court may accept, reject, or modify, in whole or in part, the findings and recommendations of the magistrate judge. *DeLuca v. Lord*, 858 F. Supp. 1330, 1345 (S.D.N.Y. 1994); *see also* 28 U.S.C. §§ 636(b)(1), (e); Fed. R. Civ. P. 72(a). Where there are no specific written objections to a magistrate judge's report and recommendation, the district court may accept the findings contained therein as long as the factual and legal bases supporting the findings are not clearly erroneous. *Thomas v. Arn*, 474 U.S. 140, 150, 106 S. Ct. 466, 472 (1985). Therefore, "[t]o accept the report and recommendation

of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” *Wilds v. United Parcel Serv., Inc.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003); *see also* Fed. R. Civ. P. 72(a).

No objections to Magistrate Judge Shields’ March 3, 2016 Report have been filed, and the deadline to object has expired. *See* 28 U.S.C. § 636(b)(1) (requiring that objections be filed within fourteen (14) days of being served with a copy of the report and recommendation); Fed. R. Civ. P. 72(a). The Court has reviewed the Report for clear error, and, having found none, adopts the Report in its entirety. Therefore:

IT IS HEREBY ORDERED that Carl Puma **show cause** on January 4, 2017 at 11:15 a.m., at the United States District Court, Eastern District of New York, 100 Federal Plaza, Central Islip, New York 11722, Courtroom 1010 before the Honorable Sandra J. Feuerstein, why he should not be held in contempt of court for the reasons set forth in Magistrate Judge Shields’ March 3, 2016 Report; and

IT IS FURTHER ORDERED that Plaintiff shall serve on Puma at his last known address, by overnight mail, a copy of this Order, together with: (1) Magistrate Judge Shields’ December 17, 2015 Order instructing Puma to respond to Plaintiffs’ discovery requests and appear at a post-judgment deposition; and (2) Magistrate Judge Shields’ March 3, 2016 Report; and

IT IS FURTHER ORDERED that Plaintiff shall file proof of such service on Puma with the Court.

Dated: Central Islip, New York
December 15, 2016

SO ORDERED.

s/ Sandra J. Feuerstein
Sandra J. Feuerstein
United States District Judge